

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TERRILYN HOUSTON and CHANDA)	CASE NO.: 1:15-cv-01853
SCHAFFER, on behalf of themselves and all)	
others similarly situated,)	JUDGE PATRICIA A. GAUGHAN
)	
Plaintiff,)	MAGISTRATE JUDGE BAUGHMAN
)	
vs.)	
)	<u>DECLARATION OF PLAINTIFFS'</u>
PROGRESSIVE CASUALTY)	<u>COUNSEL ANTHONY J. LAZZARO</u>
INSURANCE COMPANY)	
)	
Defendant.)	

I, Anthony J. Lazzaro, pursuant to 28 U.S.C. § 1746, hereby declare, under penalty of perjury, that the following is true and correct to the best of my personal knowledge, information, and belief:

1. I am one of the attorneys who represented Terrilyn Houston, Chanda Schaffer, and the Opt-In Party Plaintiffs with respect to the settlement in *Houston v. Progressive Casualty Ins. Co.*, Northern District of Ohio, Eastern Division, Case No. 2:15-cv-1702.

Professional Experience

2. I founded The Lazzaro Law Firm, LLC in December 2006 to focus my practice on litigating collective actions, class actions and individual cases for employees with overtime and minimum wage claims.

3. The firm commonly handles claims that include misclassifying employees as exempt or as independent contractors; improper rounding of start and stop times; improper tip pooling; and failing to pay for off-the-clock-work, pre-shift and post-shift work, changing into and out of uniforms, meal periods, short rest periods and travel time.

4. Since 2007, my firm has recovered approximately \$30 million in settlement payments on behalf of employees.

5. The firm has litigated over 75 certified collective and class actions against major corporations such as 1-800-Flowers, Inc., Aarons, Inc., Aldi, Inc., Forever 21, Nestlé, Papa John's USA, Inc., and RadioShack Corp.

6. The firm has also filed approximately 20% of all of the Fair Labor Standards Act ("FLSA") cases brought in the U.S. District Court for the Northern District of Ohio.

7. In addition to my practice, I served as an adjunct professor of law at Cleveland-Marshall College of Law where I taught an administrative law course on the Fair Labor Standards Act between 2008 and 2013. I have also been retained as an expert witness and as a mediator in a number of overtime and minimum wage cases.

Factual and Procedural Background

8. The complaint in the above-captioned lawsuit was filed on behalf of Plaintiffs with respect to their claims Defendant violated the overtime provisions of the Fair Labor Standards Act by failing to pay Plaintiffs and other similarly-situated employees for meal periods during which they performed work.

9. I have vigorously represented Terrilyn Houston, Chanda Schaffer and the Opt-In Plaintiffs regarding their claims, have conducted a significant investigation of their claims, and have obtained a thorough familiarity with the factual and legal issues presented in their case.

10. The parties reached the proposed settlement in this matter after good faith bargaining at the settlement conference conducted by the Court on May 25, 2016.

11. From my experience litigating this case, I believe that the proposed Settlement is in the best interests of Plaintiffs.

12. I also believe that the proposed Settlement is a fair, adequate and reasonable compromise of disputed claims.

13. Plaintiffs alleged that they were entitled to compensation for between one (1) and four (4) meal periods per week. Defendant, on the other hand, argued that Plaintiffs were not entitled to any additional compensation.

14. Plaintiffs' claimed damages assuming additional compensation for one (1) meal period per week equals approximately \$45,810.75 in overtime wages over the three-year limitations period; and Plaintiffs' claimed damages assuming additional compensation for four (4) meal periods per week equals approximately \$191,797.29 over the three-year limitations period.

15. The Settlement Agreement provides that \$118,275.46 in overtime wages will be paid to Plaintiffs over the three-year limitations period. This amount compensates Plaintiffs for approximately 258% of their claimed overtime for one (1) meal period per week, or 62% of their claimed overtime for four (4) meal periods per week. In addition, Opt-In Plaintiff Victor Randle, who was owed less than \$100.00 will receive a \$100.00 minimum payment. As such, this Settlement provides immediate and substantial relief without the attendant risks and delay of continued litigation.

16. The Settlement provides for attorneys' fees to Plaintiffs' Counsel in the amount of one-third of the Total Settlement Amount (\$65,000.00), and expenses in the amount of \$5,724.54, pursuant to Plaintiffs' fee agreement with Plaintiffs' Counsel, the notice issued to the Opt-In Plaintiffs, and the settlement demand provided to Defendant. This fee award is reasonable in light of the benefit achieved for Plaintiffs. All expenses were incurred during the course of the litigation of this Action.

17. The Lazzaro Law Firm, LLC's one-third fee request has been approved in similar FLSA collective actions in this judicial district. *See, e.g., Rucker v. Quality Blow Molding*, Northern District of Ohio Case No. 1:15-cv-1039; *Green v. H.A.D., Inc.*, Southern District of Ohio Case No. 2:15-cv-933; *Douglas, et al. v. J&K Subway, Inc.*, Northern District of Ohio Case No. 4:14-cv-2621; *Smith v. CMHA*, Northern District of Ohio Case No. 1:14-cv-1409; *Armbruster v. City of Cleveland*, Northern District of Ohio Case No. 1:13-cv-2626; *Williams v. Beckett Air, Inc.*, Northern District of Ohio Case No. 1:12-cv-2796; *Welch v. Incept Corporation*, Northern District of Ohio Case No. 5:12-cv-1775; *Malaj v. Gohlke*, Northern District of Ohio Case No. 1:11-cv-1578; *Campbell v. Judson Services*, Northern District of Ohio, Case No. 1:11-cv-906; *Murphy v. 1-800-Flowers*, Northern District of Ohio, Case No. 1:10-cv-1822; *Miller v. National Enterprise Systems*, Northern District of Ohio, Case No. 1:10-cv-1664; *Osolin v. Turocy & Watson LLP, et al*, Northern District of Ohio, Case No. 1:09-cv-2935; *Kelly v. National Enterprise Systems*, Northern District of Ohio, Case No. 1:09-cv-2268; *McNelley v. Aldi*, Northern District of Ohio, Case No. 1:09-cv-1868; *Rotuna v. West Customer Management Group*, Northern District of Ohio, Case No. 4:09-cv-1608; *Jackson v. Papa John's*, Northern District of Ohio, Case No. 1:08-cv-2791; *Dillworth v. Case Farms*, Northern District of Ohio, Case No. 5:08-cv-1694; *Fincham v. Nestlé Prepared Foods Company*, Northern District of Ohio, Case No. 1:08-cv-73; and *McGhee v. Allied Waste Industries*, Northern District of Ohio, Case No. 1:07-cv-1110.



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Signed in Cuyahoga County, Ohio,
this 8th day of June, 2016.